

1 John R. Benefiel (P 28970)
2 280 Daines Street
3 Suite 100 B
4 Birmingham, Michigan 48009-6244
5 248-644-1455

6 Charles F. Reidelbach, Jr. (167482)
7 PRESSEISEN & REIDELBACH
8 The Chamber Building
9 110 West "C" Street; Suite 714
10 San Diego, California 92101
11 619-234-4057
12 Attorneys for Defendant

13 IN THE UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15 NEW AGE PRODUCTS, INC.,

Case No. 96 2129 J CGA

16 Plaintiff,

17 v

18 PROGRESSIVE INTERNATIONAL
19 CORPORATION,

20 Defendant.

21 PROGRESSIVE INTERNATIONAL
22 CORPORATION,

23 Counterclaimant,

24 v

25 NEW AGE PRODUCTS, INC.,

26 Counterdefendant.

27 DECLARATION OF JOHN E. STONEMAN

1103 GRANVILLE DRIVE
KES

28 Declarant, John E. Stoneman, of 1730 Antigua Way, Newport
Beach, California, does state under penalty of perjury of his own
personal knowledge that the following is true:

000373

1 I founded and formerly owned a company called John E.
2 Stoneman, Inc., which in the mid 1970's began selling a product
3 under the trademark "KLEER KARD".

4 The KLEER KARD product was a thin sheet of plastic ranging
5 from 8 to 15 mils in thickness which was inserted into packages of
6 sliced bacon, these sheets commonly referred to as "bacon boards".

7 Initially, this product was made of extruded homopolymer
8 polypropylene sheets.

9 Around 1980, the KLEER KARD sheets began to be made of
10 extruded copolymer polypropylene instead of the homopolymer
11 polypropylene.

12 Still later, the KLEER KARD sheets were of extruded high
13 density polyethylene.

14 To the best of my recollection, most of the KLEER KARD
15 copolymer polypropylene sheets were extruded using Hercules Resin
16 No. 7623, although other similar resins were used from time to
17 time.

18 To the best of my recollection, based on my review of
19 attached documents Exhibits 1 and 2, in or around 1980, a Mrs.
20 Marian Gillett contacted my company about supplying sheet plastic
21 sheets for her kitchen cutting mats, and at about this same time
22 period we did offer for sale to her and sold plastic sheets of the
23 same construction as the KLEER KARD sheets to be used for her
24 kitchen cutting mats.

25 The foregoing is true and correct under penalty of perjury.

26
27 Date:

12-27-97


John E. Stoneman

Exhibit 1

JESINC

John E. Stoneman, Inc.
2043 Westchill Drive
Suite 211
Newport Beach, CA
92660

Telex 181-577

Telephone
714 645-7261

August 29, 1980

Mrs. Marian Gillett
16950 Tesoro Drive
San Diego CA 92128

Dear Mrs. Gillett:

Listed below is confirmation of prices quoted verbally to
you on August 27th.

		<u>10,000</u>	<u>30,000</u>	<u>50,000</u>
9 mil	12" x 14"	110.14/M	92.44/M	83.33/M
	12" x 15"	116.90/M	98.65/M	89.03/M
	12" x 16"	123.80/M	104.85/M	94.78/M
10 mil	12" x 14"	120.76/M	102.11/M	92.20/M
	12" x 15"	130.08/M	108.96/M	98.47/M
	12" x 16"	135.84/M	115.87/M	104.82/M
12 mil	12" x 14"	142.00/M	121.40/M	109.88/M
	12" x 15"	151.10/M	129.69/M	117.48/M
	12" x 16"	160.18/M	137.95/M	125.05/M

These prices are figured without the special packaging.
Let us know if you need further information. We will
send some 10 mil samples as soon as available.

Yours truly,

Charlotte Hampton
Charlotte Hampton (af)

CH:at

000375

John E. Stoneman, Inc.
2043 Westcliff Drive
Suite 211
Newport Beach, CA
92660

Telex 181-577
Telephone
714 645-7261

JESINC

INVOICE
No. 9557

Marion Gillette
Marketing Services Inc.
11660 Iberia Place
San Diego, Ca 92128

S O L D T O

S H I P T O
Same

Invoice Date	Terms	Your Order No	Salesman	House	FOB	Description	Unit Price	Unit	Amount
7-29-81	1%/10/N30	Verbal							
Date Shipped	Shipped Via								
7-22-81	UPS								
Qty Shipped									
3000						11 1/2 x 15	9 mil Kleer Kards		
1000						6 1/2 x 5	9 mil Kleer Kards		
							UPS Charge		
							\$ 175.00	Lot	\$ 175.00
									\$ 21.74
									\$ 196.74

Shipment Complete

A service charge of 1% per month on the unpaid balance will be made on all past due accounts. Should this rate exceed the maximum rate that is lawful under the circumstances, that maximum rate shall apply. Customer also agrees to pay reasonable attorney's fees and other costs incurred at collection.

ORIGINAL

000376

Exhibit Z



Test Report

3883 E. Eagle Drive, Anaheim, CA 92807-1722 / Phone 714-630-3003 • Fax 714-630-4443

FAA Registration Number OYCR172L

Page 1 of 1

John R. Benefiel
Law Offices
280 Daines Street Suite 100 B
Birmingham, MI 48009-6244

Date: October 31, 1997
OC.MTL No: 971501
PO No: Verbal John R. Benefiel
Phone: 248-644-1455
Fax: 248-644-6530

Background:

A group of plastic sheeting samples identified as "COUNTER-MAID®" were submitted for the purpose of performing a material identification by use of Fourier Transform Infrared (FTIR) analysis and Differential Scanning Calorimetry (DSC).

The submitted samples were identified as a Polypropylene Copolymer. The purpose of this set of tests is to determine if this is indeed what the material is.

Methods of Testing:

FTIR testing was performed by removing a small amount of material from both sides of the sample and performing diffuse reflectance spectroscopy.

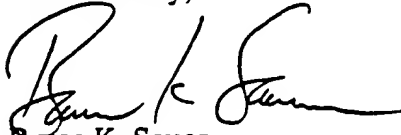
DSC testing was performed by cutting a sample weighing 7.20 mg, placing it in a sealed aluminum pan and performing a DSC test at a heating rate of 10°C per minute.

Test Results:

The FTIR analysis of the sample best matched that of Polypropylene Copolymer. See attached spectra's. The primary difference between the copolymer and homopolymer is the peak at 723 cm-1, this is indicative of a secondary material being present.

The DSC analysis of the COUNTER-MAID® sample shows a slight inflection in the slope at about 120°C. This is indicative of a copolymer. See attached DSC curves. You will notice the homopolymer standard shows a fairly flat slope prior to the transition of the polypropylene, where the copolymer standard shows an inflection.

Submitted by,


Bruce K. Sauer
Lab Director

000377

920000

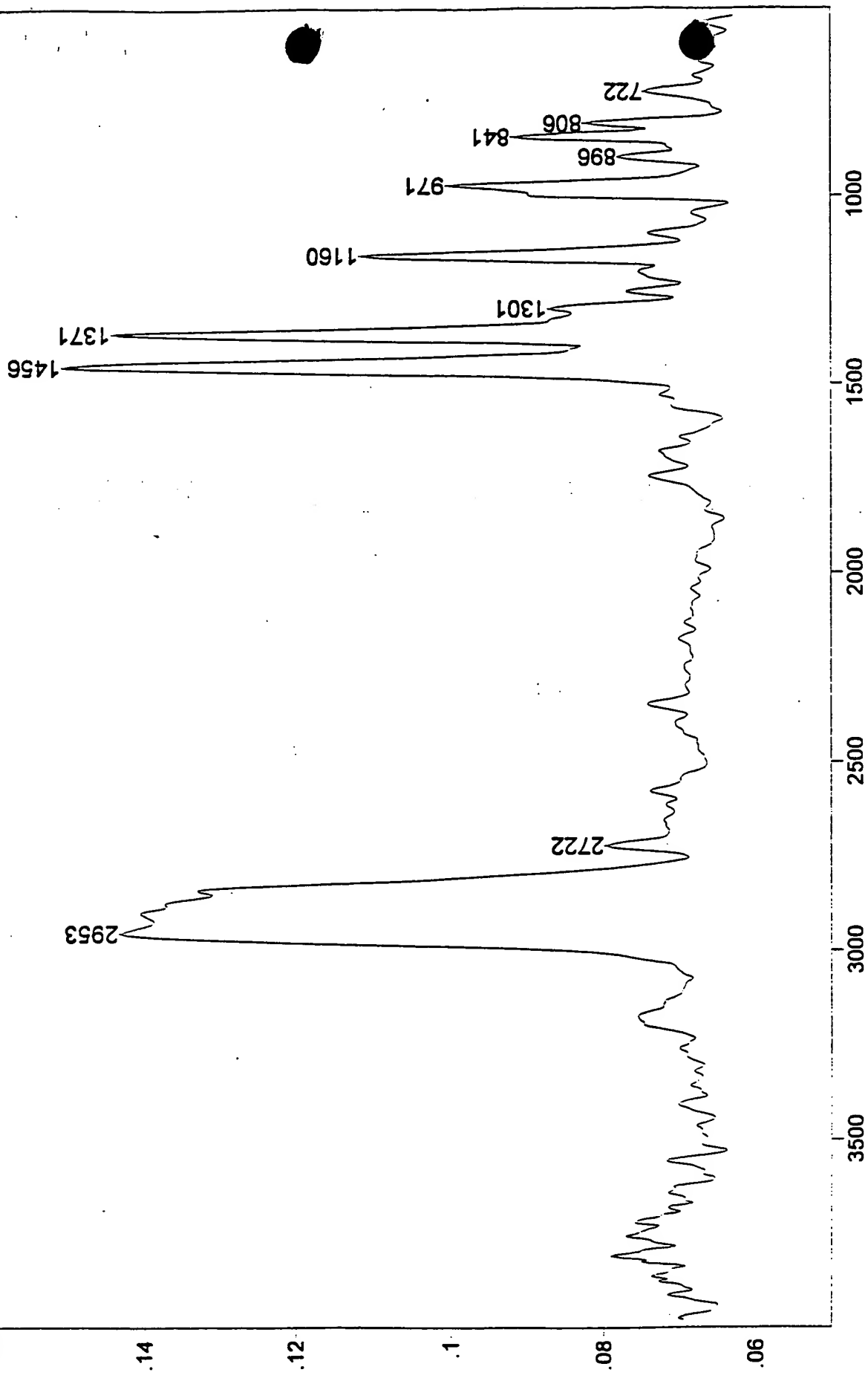
Absorbance / Wavenumber (cm-1)

File # 2 : 971501A

Paged X-Zoom CURSOR

10/29/97 1:46 PM Res=8 cm-

JOHN R. BENEFIEL / POLYPROPYLENE COPOLYMER SHEETING

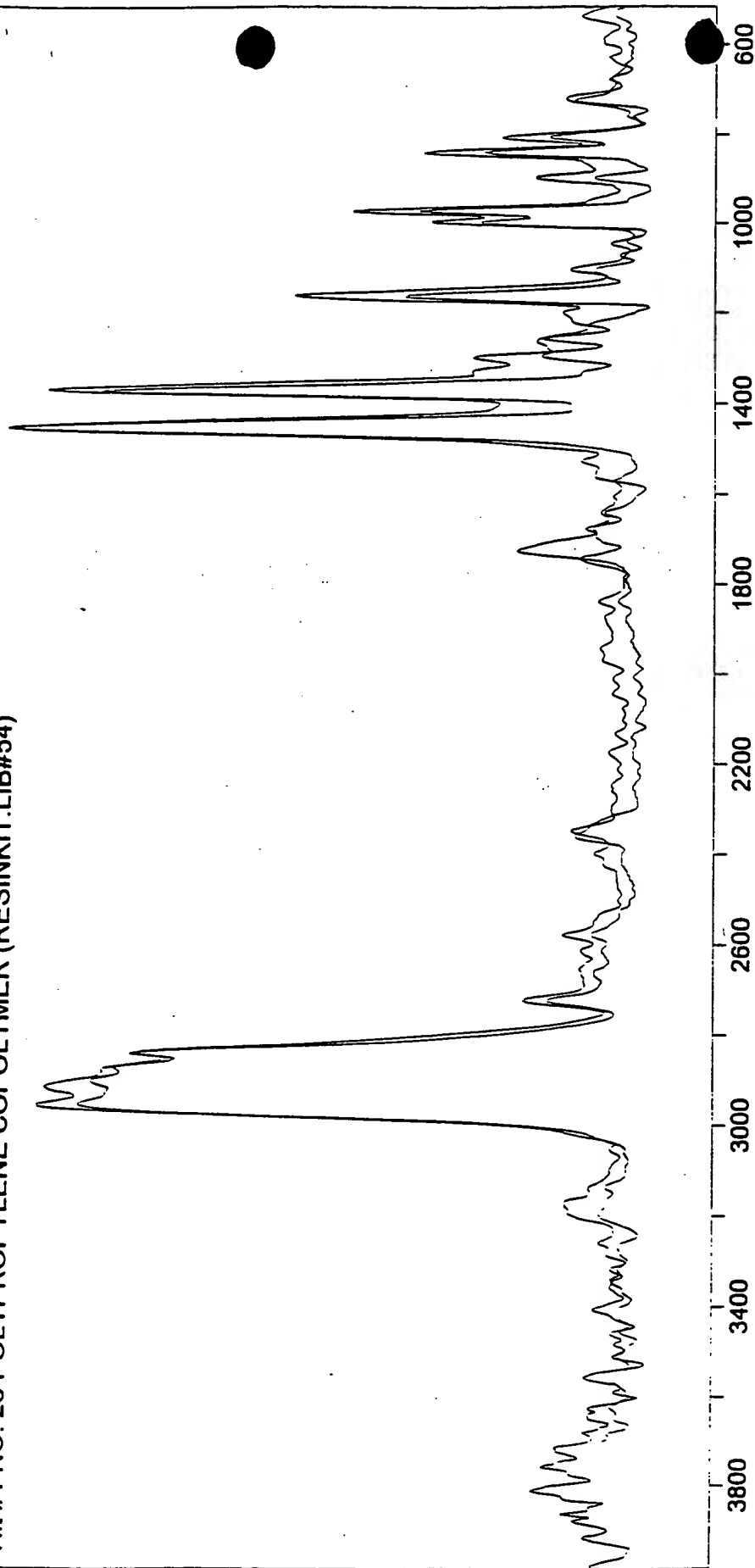


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Mask Used = None

Peak Search: None
Full Spectrum Search: Euclidian Distance
Custom Search: None

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Hit #1 NO. 26 POLYPROPYLENE COPOLYMER (RESINKIT.LIB#54)



Wavenumber (cm-1)

Hit List

Number	Quality	Index	SPC Identification
1	.2043		NO. 26 POLYPROPYLENE COPOLYMER
2	.27934		POLYPRO F-975 D*MODIFIED POLYPROPYLENE
3	.28898		PICCOLYTE S-25*POLYTERPENE RESIN
4	.31275		PT48.13401 TPXETHYL PENT-1-ENE)O
5	.34608		PT50.13601 P.P. NOVOLEN 1100M
6	.36465		EASTOBOND M-5L*HOT MELT LAMINATING ADHESIVE
7	.39505		PICCOLYTE S-125*HYDROCARBON THERMOPLASTIC TERPENE RESIN
8	.39505		PICCOLYTE S-125*HYDROCARBON THERMOPLASTIC TERPENE RESIN



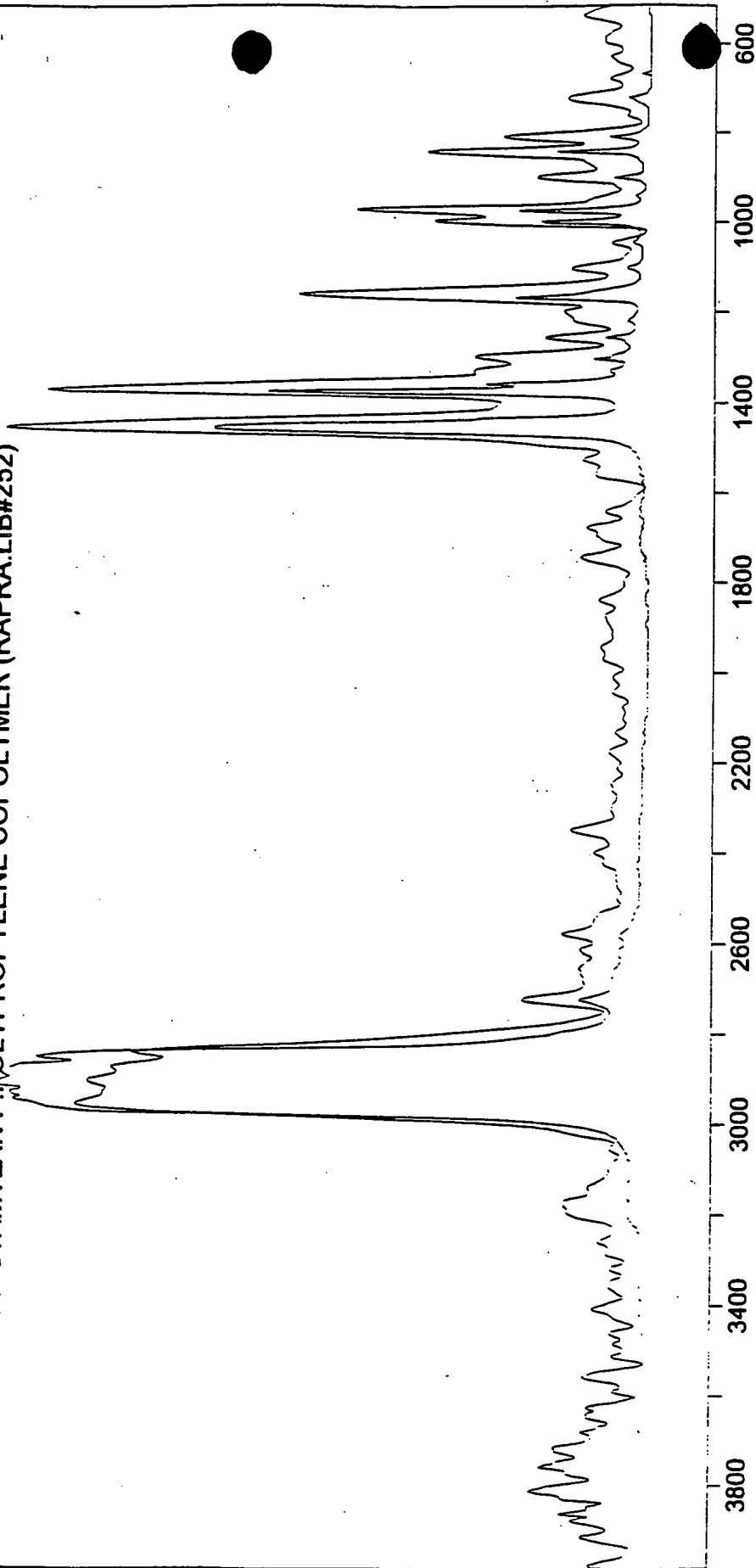
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Mask Used = None

Peak Search: None
Full Spectrum Search: Euclidian Distance
Custom Search: None

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Hit #8 PT50.13603 PP STAMYLAN P POLYPROPYLENE COPOLYMER (RAPRA.LIB#252)



Wavenumber (cm-1)

Hit List

Number	Quality	Index	SPC Identification
1	.2043		NO. 26 POLYPROPYLENE COPOLYMER
2	.27934		POLYPRO F-975 D*MODIFIED POLYPROPYLENE
3	.36465		EASTOBOND M-5L*HOT MELT LAMINATING ADHESIVE
4	.40603		POLYPROPYLENE, ATACTIC
5	.42193		BICOR 410 B 3*POLYPROPYLENE FILM
6	.446		HOSTALEN PPK 1060*POLYPROPYLENE
7	.4509		PICCOPALE A-22*ANIONIC EMULSION
8	.45817		PT50.13603 PP STAMYLAN P POLYPROPYLENE COPOLYMER



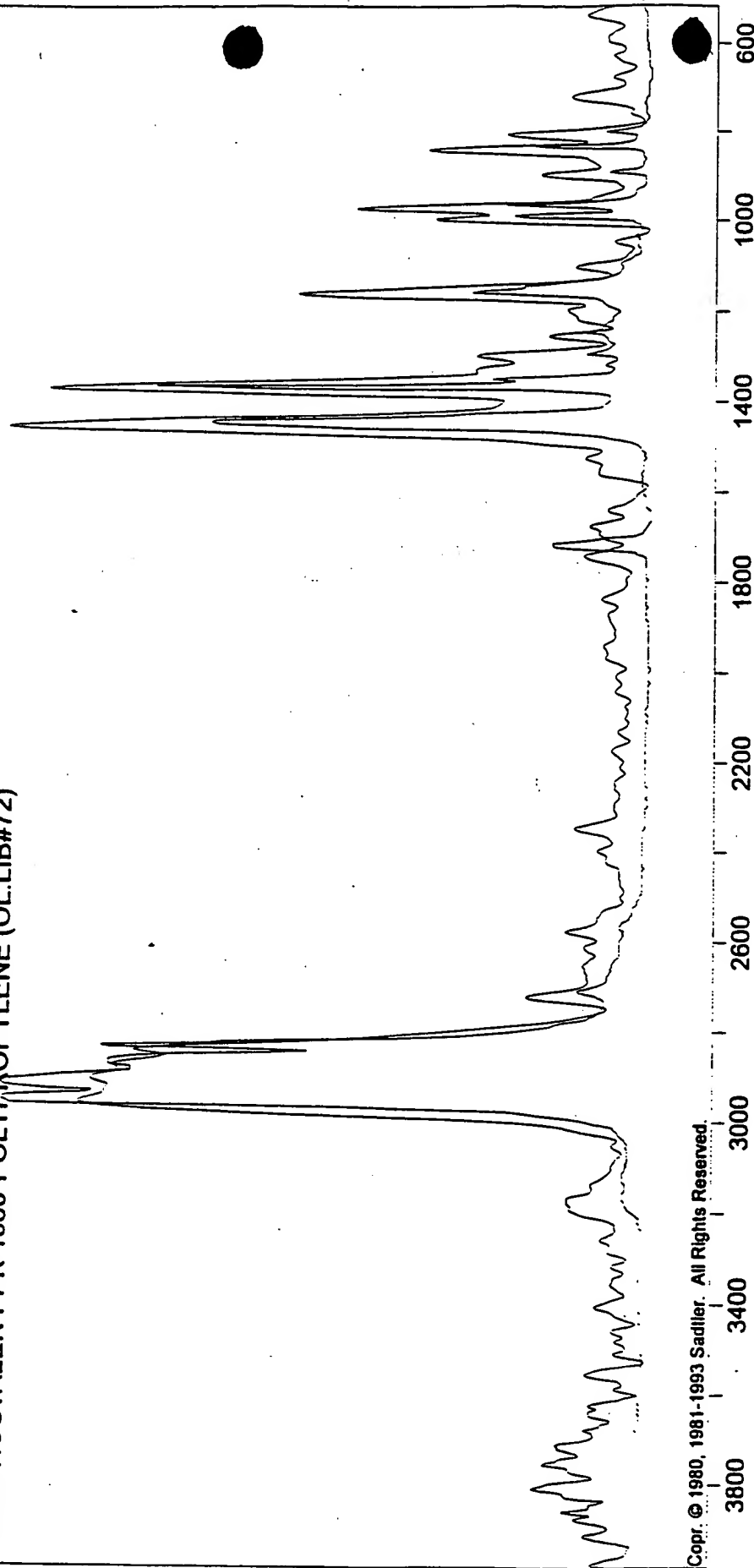
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Peak Search: None
Full Spectrum Search: Euclidian Distance
Custom Search: None

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Hit #6 HOSTALEN PPK 1060*POLYPROPYLENE (OL.LIB#72)



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Wavenumber (cm-1)

Hit List

Number	Quality Inde	SPC Identification
6	.446	HOSTALEN PPK 1060*POLYPROPYLENE
7	.4509	PICCOPALE A-22*ANIONIC EMULSION
8	.45817	PT50.13603 PP STAMYLAN P.POLYPROPYLENE COPOLYMER
9	.46295	AMOCO 1046 POLYPROPYLENE*HOMOPOLYMER RESIN
10	.4653	POLYPROPYLENE FILM, ISOTACTIC*BIAXIALLY ORIENTED
11	.46649	POLYTAC*AMORPHOUS POLYPROPYLENE
12	.46649	PP8662R*POLYPROPYLENE
13	.46649	PT50.13602 SHELL POLYPROPYLENE

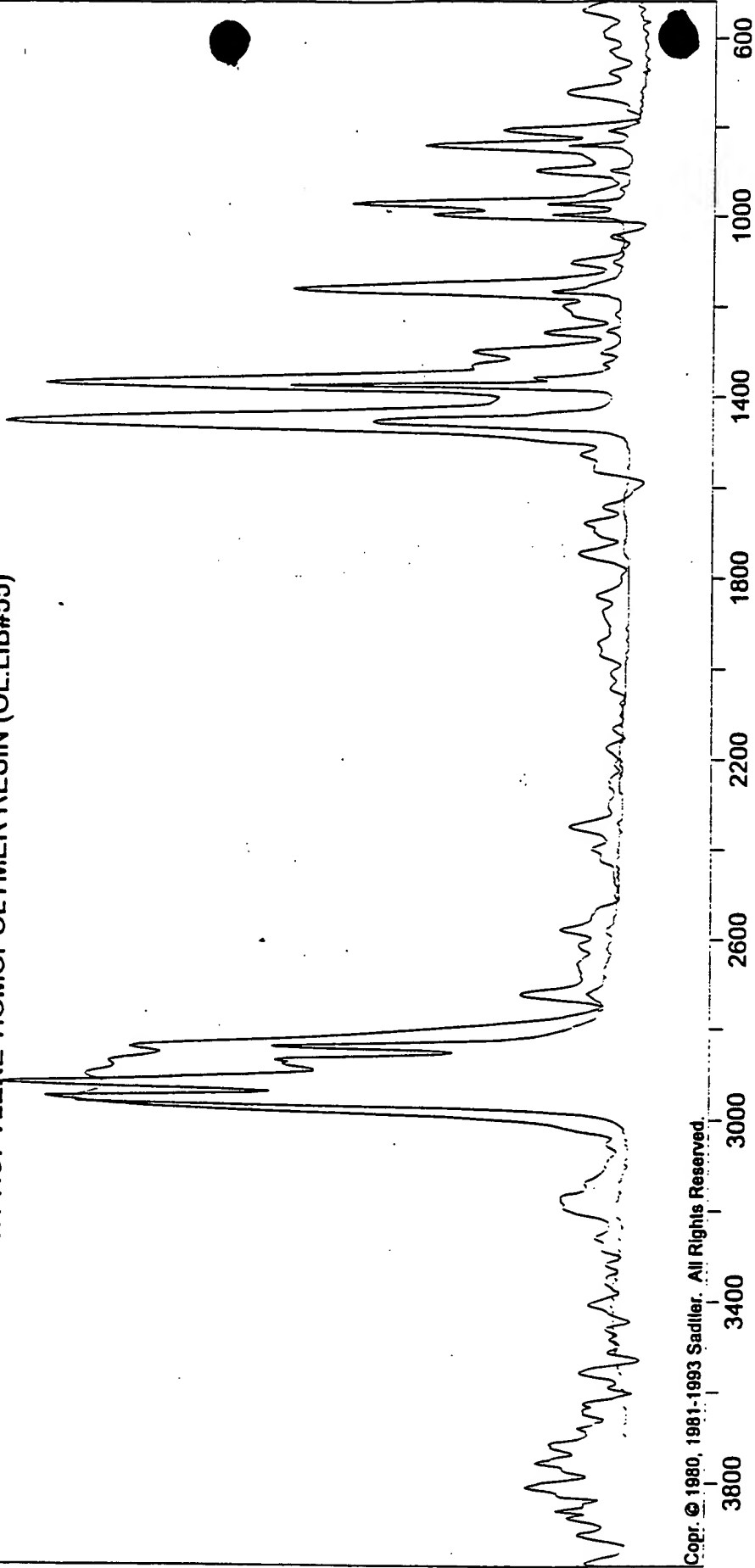


000350

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Mask Used = None

Peak Search: None
Full Spectrum Search: Euclidian Distance
Custom Search: None

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Hit #9 AMOCO 1046 POLYPROPYLENE*HOMOPOLYMER RESIN (OL.LIB#55)

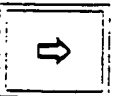
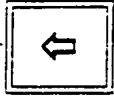


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Wavenumber (cm-1)

Hit List

Number	Quality	Index	SPC Identification
1	.2043		NO. 26 POLYPROPYLENE COPOLYMER
2	.27934		POLYPRO F-975 D*MODIFIED POLYPROPYLENE
3	.36465		EASTOBOND M-5L*HOT MELT LAMINATING ADHESIVE
4	.40603		POLYPROPYLENE, ATACTIC
5	.42193		BICOR 410 B 3*POLYPROPYLENE FILM
6	.446		HOSTALEN PPK 1060*POLYPROPYLENE
7	.4509		PICCOPALE A-22*ANIONIC EMULSION
8	.45817		PT50.13603 PP STAMYLAN P.POLYPROPYLENE COPOLYMER



"COUNTER MAID"

Sample: COPOLYMER POLYPROPYLENE

Size: 7.2000 mg

Method: DSC 25/10/300°C

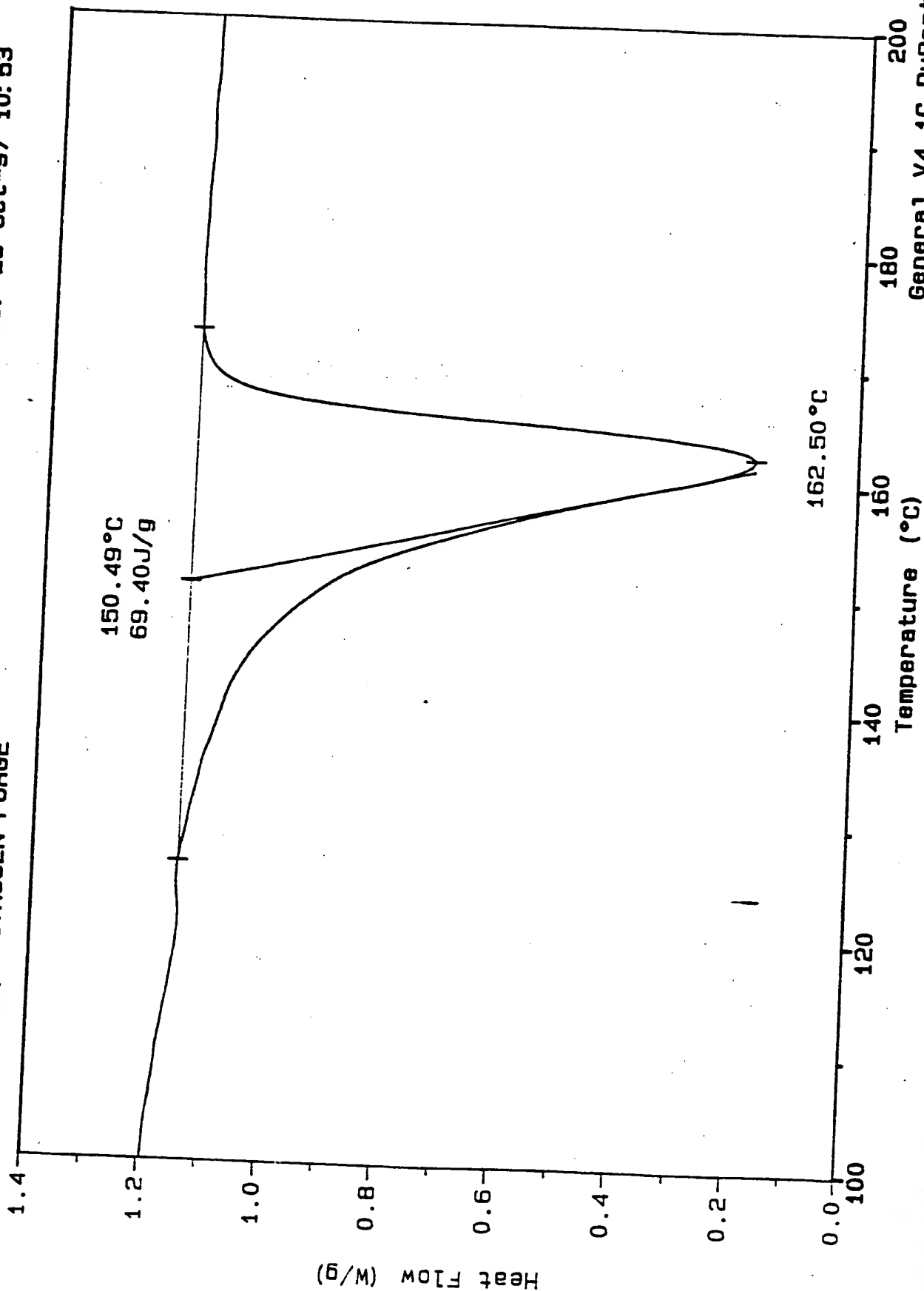
Comment: 10°C/min, NITROGEN PURGE

DSC

File: 971501

Operator: BEHROZ HAMKAR

Run Date: 29-Oct-97 10:53



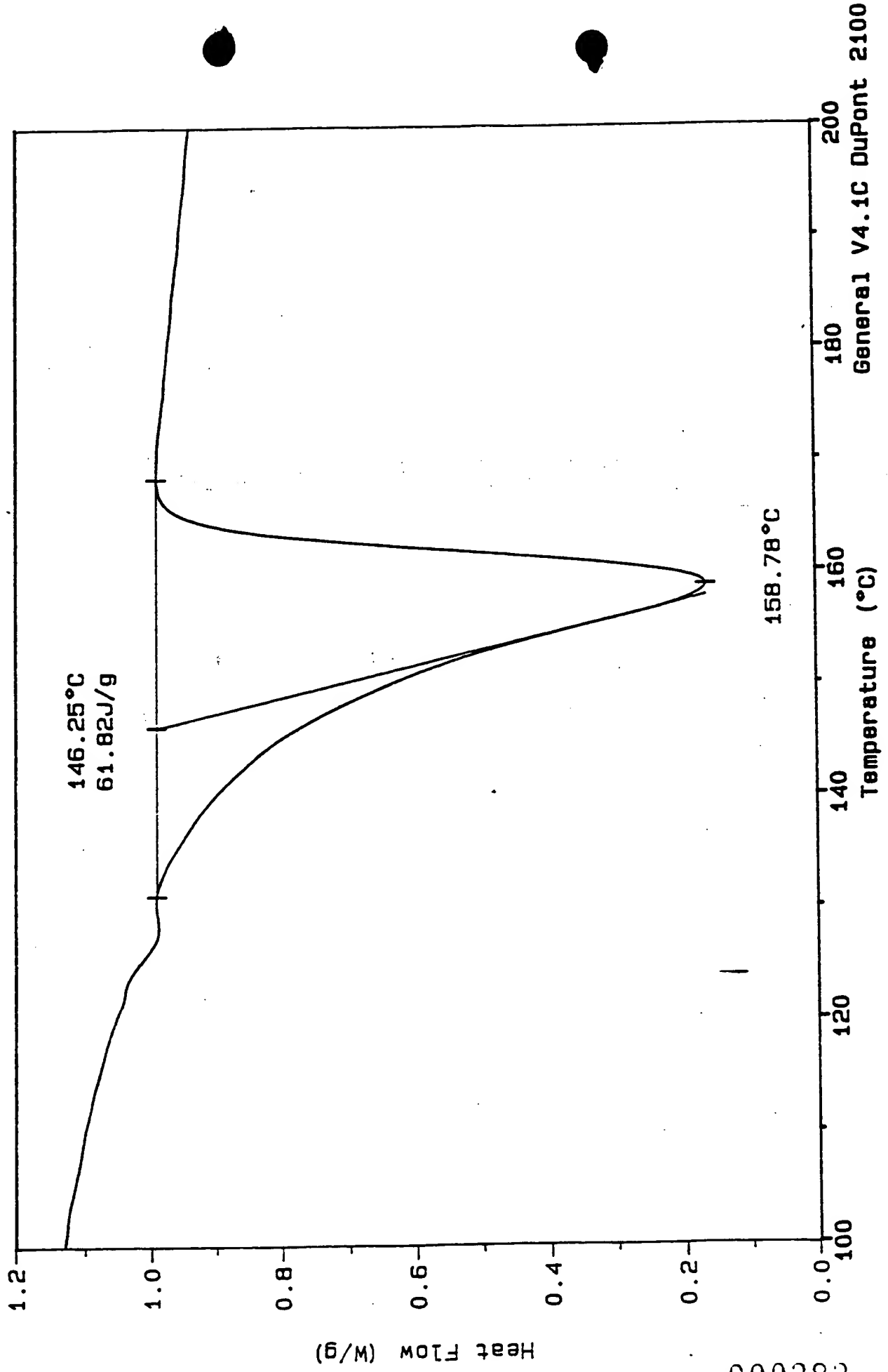
000382

STANDARD of KNOWN

Sample: NO. 26 POLYPROPYLENE COPOLYMER
Size: 9.1000 mg
Method: DSC 25/10/300°C
Comment: 10°C/min, NITROGEN PURGE

DSC

File: 971501.001
Operator: BEHROZ HAMKAR
Run Date: 30-Oct-97 06:33

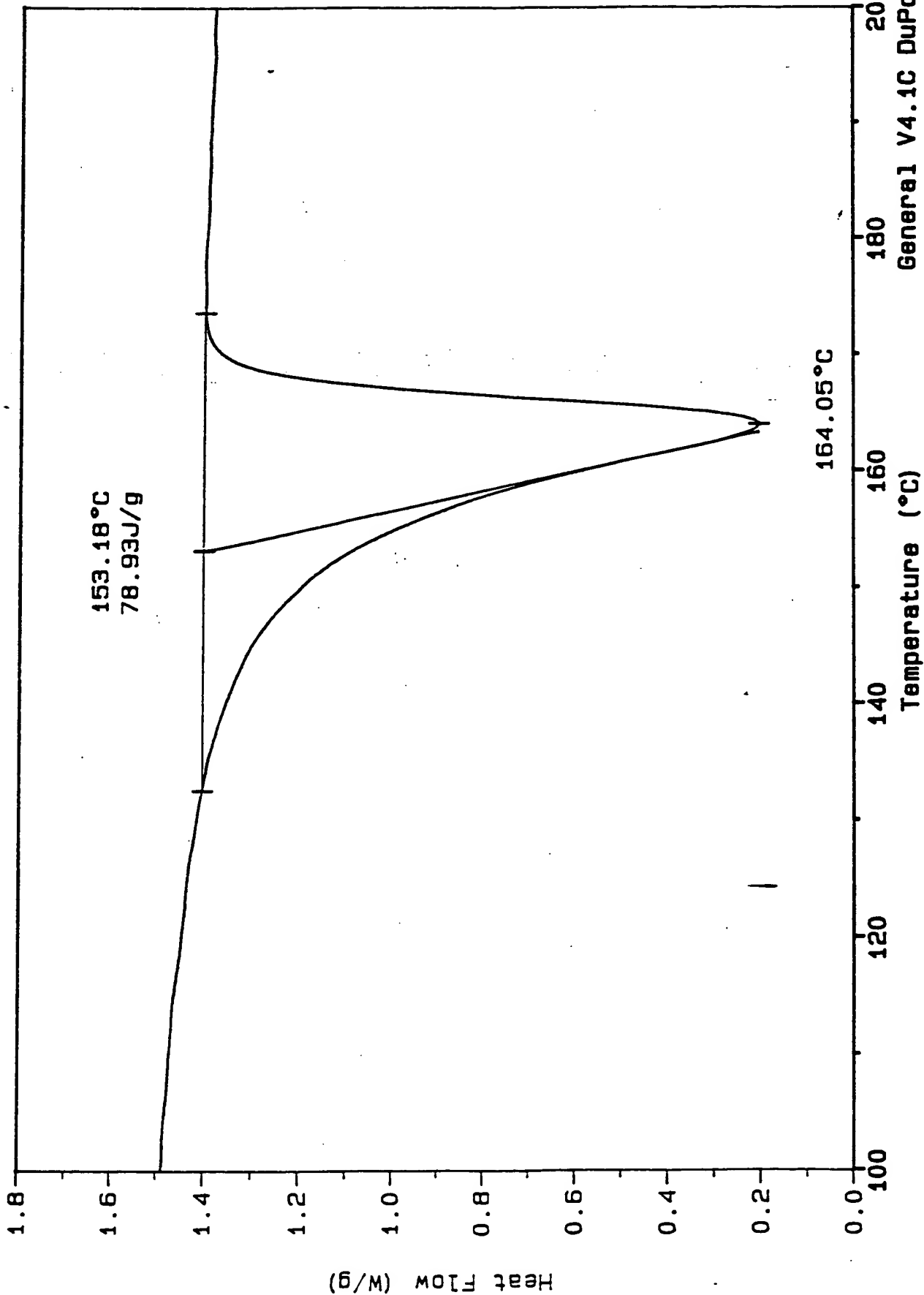


000383

Sample: NO. 27 POLYPROPYLENE HOMOPOLYMER
Size: 7.7000 mg
Method: DSC 25/10/300°C
Comment: 10°C/min, NITROGEN PURGE

DSC

File: 971501.002
Operator: BEHROZ HAMKAR
Run Date: 30-Oct-97 09:31



488000